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8 **BEFORE THE**
BOARD OF REGISTERED NURSING
DEPARTMENT OF CONSUMER AFFAIRS
9 **STATE OF CALIFORNIA**

10 In the Matter of the Accusation Against:

Case No. **2011-149**

11 **NOE LOPEZ**
12 **7983 Hemingway Court**
13 **Fontana, CA 92336**

A C C U S A T I O N

14 **Registered Nurse License No. 610082**

15 Respondent.

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17 Complainant alleges:

18 **PARTIES**

19 1. Louise R. Bailey, M.Ed., RN (Complainant) brings this Accusation solely in her
20 official capacity as the Interim Executive Officer of the Board of Registered Nursing, Department
21 of Consumer Affairs.

22 2. On or about December 2, 2002, the Board of Registered Nursing issued Registered
23 Nurse License Number 610082 to Noe Lopez (Respondent). The Registered Nurse License was
24 in full force and effect at all times relevant to the charges brought herein and will expire on
25 February 29, 2012, unless renewed.

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1 **FIRST CAUSE FOR DISCIPLINE**

2 **(Out-of-State Discipline)**

3 9. Respondent is subject to disciplinary action under Code section 2761, subdivision
4 (a)(4), on the grounds of unprofessional conduct, in that Respondent has been disciplined by the
5 Department of Health, Nursing Care Quality Assurance Commission for the State of Washington
6 (Washington Commission), as follows:

7 10. On June 26, 2009, the Washington Commission entered into the Stipulated Findings
8 of Fact, Conclusions of Law and Agreed Order (Agreed Order) with Respondent (a true and
9 correct copy of which is attached as **Exhibit "A"**), after the Washington Commission produced
10 evidence that Respondent may have violated the Revised Code of Washington (RCW), Uniform
11 Disciplinary Act, Section 18.130.180(1), (4), (7) and (24) and Washington Administrative Code
12 (WAC) Section 246-840-710(1), (2)(d), (g) and (i), by doing the following:

13 a. On September 28, 2007, while employed as a registered nurse in the Emergency
14 Department at Evergreen Hospital Medical Center in Kirkland, Washington, Patient A was
15 brought into the hospital by ambulance. Patient A had been drinking heavily that day, and was
16 verbally abusive and uncooperative.

17 b. After wandering the halls in search of a bathroom, Patient A was provided with a
18 urinal, but he urinated on the floor instead. Respondent undressed Patient A and used Patient A's
19 clothes to wipe up the urine from the floor.

20 c. Respondent then sought to catheterize Patient A, but failed to follow sterile
21 procedure, abusing and berating Patient A throughout the procedure. Respondent also took the
22 catheter and ran it between Patient A's toes approximately three times, and struck him in the
23 groin area with the catheter. Respondent then spat on Patient A's penis, and told him he would
24 teach him to respect women.

25 d. Respondent then poured betadine solution on Patient A's penis and inserted the
26 catheter without using any lubrication. Respondent ended the interaction with Patient A by
27 stating "That's how we do it in L.A." and left the room.

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1 e. Respondent admitted the incidents set forth above, and that he failed to control his
2 anger. Respondent expressed remorse, and completed an anger management course and other
3 courses related to nursing.

4 11. It was therefore ordered and agreed between the Washington Commission and
5 Respondent that Respondent's credential to practice as a registered nurse in the State of
6 Washington was indefinitely suspended, with no right to seek reinstatement for a period of at
7 least 36 months from the effective date of the Agreed Order. Prior to any petition for
8 reinstatement, Respondent agreed she would successfully complete courses in stress and anger
9 management and patient safety, pay a \$1,000 fine, and submit to a psychiatric/psychological
10 evaluation, among other terms and conditions.

11 **SECOND CAUSE FOR DISCIPLINE**

12 **(Unprofessional Conduct)**

13 12. Respondent is subject to disciplinary action under Code section 2761, subdivision
14 (a)(4), in that he engaged in unprofessional conduct, as set forth above in Paragraph 10,
15 subparagraphs (a)-(e), and incorporated herein by this reference in full.

16 **PRAYER**

17 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,
18 and that following the hearing, the Board of Registered Nursing issue a decision:

19 1. Revoking or suspending Registered Nurse License Number 610082, issued to Noe
20 Lopez;

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2. Ordering Noe Lopez to pay the Board of Registered Nursing the reasonable costs of the investigation and enforcement of this case, pursuant to Business and Professions Code section 125.3; and

3. Taking such other and further action as deemed necessary and proper.

DATED: 8/19/10

Louise R. Bailey
LOUISE R. BAILEY, M.ED., RN
Interim Executive Officer
Board of Registered Nursing
Department of Consumer Affairs
State of California
Complainant

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21st day of April 2010

Christina Neish

Signature, Authorized Representative

STATE OF WASHINGTON
DEPARTMENT OF HEALTH
NURSING CARE QUALITY ASSURANCE COMMISSION

In the Matter of

NOE LOPEZ

Credential No. RN.RN.00173809

Respondent

No. M2008-118475

**STIPULATED FINDINGS OF FACT,
CONCLUSIONS OF LAW AND
AGREED ORDER**

The Nursing Care Quality Assurance Commission (Commission), through Miranda Bayne, Department of Health Staff Attorney, and Respondent, represented by counsel, if any, stipulate and agree to the following:

1. PROCEDURAL STIPULATIONS

1.1 On May 15, 2009, the Commission issued a Statement of Charges against Respondent.

1.2 Respondent understands that the Commission is prepared to proceed to a hearing on the allegations in the Statement of Charges.

1.3 Respondent understands that if the allegations are proven at a hearing, the Commission has the authority to impose sanctions pursuant to RCW 18.130.160.

1.4 Respondent has the right to defend against the allegations in the Statement of Charges by presenting evidence at a hearing.

1.5 Respondent waives the opportunity for a hearing on the Statement of Charges provided that the Commission accepts this Stipulated Findings of Fact, Conclusions of Law and Agreed Order (Agreed Order).

1.6 The parties agree to resolve this matter by means of this Agreed Order.

1.7 Respondent understands that this Agreed Order is not binding unless and until it is signed and accepted by the Commission.

1.8 If the Commission accepts this Agreed Order, it will be reported to the Health Integrity and Protection Databank (45 CFR Part 61); the National Practitioner Databank (45 CFR Part 60) and elsewhere as required by law. It is a public document and will be placed on the Department of Health's website and otherwise disseminated as

required by the Public Records Act (Chap. 42.56 RCW) and the Uniform Disciplinary Act RCW 18.130.110.

1.9 If the Commission rejects this Agreed Order, Respondent waives any objection to the participation at hearing of any Commission members who heard the Agreed Order presentation.

2. FINDINGS OF FACT

Respondent and the Commission stipulate to the following facts:

2.1 On July 23, 2007, the state of Washington issued Respondent a credential to practice as a registered nurse. Respondent's credential expired on January 24, 2008.

2.2 On or about September 28, 2007, Respondent was working in the Emergency Department at Evergreen Hospital Medical Center, located in Kirkland, Washington.

2.3 On that evening, Patient A was brought in by ambulance. Patient A had been drinking heavily that day, and was verbally abusive and uncooperative.

2.4 After wandering the halls in search of a bathroom, Patient A was provided with a urinal, but he urinated on the floor. Respondent undressed the patient and used the patient's clothes to wipe up the urine on the floor.

2.5 Respondent then sought to catheterize Patient A. Respondent failed to follow sterile procedure, abusing and berating the patient throughout the procedure.

2.6 Respondent took the catheter and ran it between the patient's toes approximately three (3) times, and used the catheter to strike the patient in the groin area. He then spat on the patient's penis. Respondent told the Patient he would teach him to respect women.

2.7 Respondent then poured betadine solution on the patient's penis and inserted the catheter without using any lubrication.

2.8 Respondent ended the interaction with the patient, stating "That's how we do it in LA," and left the room.

3. CONCLUSIONS OF LAW

The Commission and Respondent agree to the entry of the following Conclusions of Law:

STIPULATED FINDINGS OF FACT,
CONCLUSIONS OF LAW AND AGREED ORDER
NO. M2008-118475

PAGE 2 OF 6

AO - REV. 9-08

3.1 The Commission has jurisdiction over Respondent and over the subject matter of this proceeding.

3.2 Respondent has committed unprofessional conduct in violation of RCW 18.130.180(1), (4), (7), (24); and WAC 246-840-710(1), (2)(d), (g) and (i).

3.3 The above violations provide grounds for imposing sanctions under RCW 18.130.160.

4. COMPLIANCE WITH SANCTION RULES

4.1 The disciplinary authority applies WAC 246-16-800, *et seq.*, to determine appropriate sanctions. WAC 246-16-800(2)(c) requires the disciplinary authority to impose terms based on a specific sanction schedule unless "the schedule does not adequately address the facts in a case."

4.2 Respondent's alleged conduct falls in Tier B of the "Abuse – Physical and/or Emotional" schedule, WAC 246-16-830. The sanction range associated with that tier does adequately address the alleged facts of this case. The disciplinary authority has identified factors that justify a sanction that falls in the middle range of the above identified tier.

4.3 The disciplinary authority considered the following aggravating factors:

- A. The nature of Respondent's conduct was particularly egregious, and risked patient harm, both mental and physical. Although the patient was likely too intoxicated to recall the events, the conduct was calculated to humiliate. Additionally, catheterizing without following basic infection control protocols put the patient at risk of a potentially serious infection.

4.4 The disciplinary authority considered the following mitigating factors:

- A. The Respondent has admitted the incident, and that he let his rage get to him. He has expressed his remorse, and undergone an anger management course.

5. AGREED ORDER

Based on the Findings of Fact and Conclusions of Law, the Commission and Respondent agree to entry of the following Agreed Order:

STIPULATED FINDINGS OF FACT,
CONCLUSIONS OF LAW AND AGREED ORDER
NO. M2008-118475

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AO - REV. 9-06

5.1 Respondent's credential to practice as a registered nurse in the state of Washington shall be and is hereby **INDEFINITELY SUSPENDED** with no right to seek reinstatement of credential for a period of at least thirty-six (36) months from the effective date of this Agreed Order.

5.2 Prior to any petition for reinstatement, Respondent shall pay a fine to the Commission in the amount of one thousand dollars (\$1,000.00). The fine shall be paid by certified or cashier's check or money order, made payable to the Department of Health and mailed to the Department of Health, Nursing Commission, at P.O. Box 1099, Olympia, Washington 98507-1099.

5.3 Prior to any petition for reinstatement, Respondent shall provide evidence to the Commission that he has successfully completed a minimum of twenty-four (24) hours of course-work, pre-approved by the Commission or its designee as follows: a) a minimum of eight (8) hours in the area of stress management; b) a minimum of eight (8) hours in the area of anger management; and c) a minimum of eight (8) hours in the area of patient safety. The course-work must be taken at an accredited educational institution or through a program otherwise approved by the Commission. Respondent shall provide the Commission with proof of completion of such course-work within thirty (30) days of such completion.

5.4 Within ninety (90) days prior to any petition for reinstatement, Respondent shall undergo a psychiatric or psychological evaluation by a psychiatrist or psychologist pre-approved by the Commission. Prior to the evaluation, Respondent shall provide the evaluator with a copy of this Agreed Order. Respondent shall ensure that a copy of the evaluator's report is provided to the Commission within thirty (30) days of its completion. Respondent shall comply with all treatment or follow up care recommendations made by the evaluator.

5.5 Respondent is responsible for all costs of complying with this Agreed Order.

5.6 Respondent shall inform the Commission and the Adjudicative Clerk Office, in writing, of changes in Respondent's residential and/or business address within thirty (30) days of the change.

5.7 The effective date of this Agreed Order is the date the Adjudicative Clerk Office places the signed Agreed Order into the U.S. mail. If required, Respondent shall

not submit any fees or compliance documents until after the effective date of this Agreed Order.

6. ACCEPTANCE

I, NOE LOPEZ, have read, understand and agree to this Agreed Order. This Agreed Order may be presented to the Commission without my appearance. I understand that I will receive a signed copy if the Commission accepts this Agreed Order.



NOE LOPEZ
RESPONDENT

6/2/08

DATE

_____, WSBA #
ATTORNEY FOR RESPONDENT

DATE

7. ORDER

The Commission accepts and enters this Stipulated Findings of Fact, Conclusions of Law and Agreed Order.

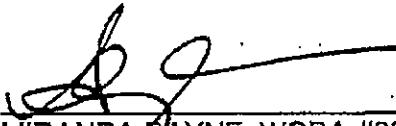
DATED: 6/26/09 2009.

STATE OF WASHINGTON
DEPARTMENT OF HEALTH
NURSING CARE QUALITY ASSURANCE
COMMISSION



PANEL CHAIR

PRESENTED BY:



MIRANDA PAYNE, WSBA #38189
DEPARTMENT OF HEALTH STAFF ATTORNEY

June 26, 2009
DATE